[redacted]

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

CITIZENS AGAINST UNIDENTIFIED FLYING OBJECTS SECRECY, Plaintiff, v. NATIONAL SECURITY AGENCY, Defendant.	)	Civil Action No. 80-1562

IN CAMERA
AFFIDAVIT OF EUGENE F. YEATES

County of Anne Arundel)
) ss:
State of Maryland)

Eugene F. Yeates, being duly sworn, deposes and says:

1. (U) I am the Chief, Office of Policy, of the National Security Agency (NSA). As Chief, Office of Policy, I am responsible for processing all initial requests made pursuant to the Freedom of Information Act (FOIA) for NSA records. The statements herein are based upon personal knowledge, upon my personal review of information available to me in my official capacity, and upon conclusions reached in accordance therewith.

2. (U) This affidavit supplements my unclassified affidavit executed on September 30, 1980 regarding all documents which have been located by NSA pursuant to plaintiff's FOIA request but which have been withheld wholly or in part by NSA. I submit this affidavit in camera for the purpose of stating facts, which cannot be publicly disclosed, that are the basis for exempting the records from release to the plaintiff.

3. ([redacted]CCO) At the beginning of each paragraph of this affidavit, the letter or letters within parentheses designate(s) the degree of sensitivity of information the paragraph contains.

[redacted]

The letters "U", "C", "S" and "TS" indicate respectively that the information is unclassified or is classified CONFIDENTIAL, SECRET or TOP SECRET. The symbols "(SC)" and "(TSC)" stand for "SECRET CODEWORD" and "TOP SECRET CODEWORD", respectively. "CODEWORD" refers to one of the distinctive five-letter words used to identify the source of the information as communications intelligence (COMINT), to distinguish between COMINT categories and sub-categories, and to facilitate the application of regulations for the dissemination and use of COMINT. [The codeword "UMBRA" appearing in conjunction with the TOP SECRET classification at the top and bottom of each page of this affidavit, is the codeword applicable to Category III (the highest category) COMINT.] Documents revealing sensitive details about the production of COMINT must bear the classification and codeword appropriate to the highest category or sub-category of COMINT to which they relate, even though they may not contain COMINT as such. [The symbol "CCO", which stands for the caveat "HANDLE VIA COMINT CHANNELS ONLY", is used to designate information related to COMINT or COMINT activities, which, although it does not require codeword protection, must be kept within COMINT channels, i.e., disclosed only to persons eligible to receive COMINT itself.]

THE RELEVANT DOCUMENTS

4. (U) In processing the plaintiff's FOIA request, a total of two hundred and thirty-nine documents were located in NSA files. Seventy-nine of these documents originated with other government agencies and have been referred by NSA to those agencies for their direct response to the plaintiff. One document, which I addressed in paragraph 20c of my public affidavit, was erroneously treated as part of the subject matter of plaintiff's FOIA request. It is an account by a person

assigned to NSA of his attendance at a UFO symposium and it cannot fairly be said to be a record of the kind sought by the plaintiff. Another document, discussed in paragraph 20d of my public affidavit, was recently declassified and released to plaintiff. Two additional non-COMINT records have been released to the plaintiff with the exempted material deleted. The deletions in these documents are explained below:

a. A document entitled UFO Hypothesis and Survival Questions was released to the plaintiff with the deletion on page seven of the name of the employee who prepared the draft and a deletion of a reference to his NSA component. As I explained in paragraph 20, sub-paragraph a, of my open affidavit, information about NSA's organization or employees is protected from disclosure by Public Law 86-36 and, therefore, exempt pursuant to 5 U.S.C. §552(b)(3).

b. The second non-COMINT document is a three page undated, unofficial draft of a monograph with a four page appendix by the same agency employee who authored the draft referenced in sub-paragraph a, above. This document was discussed in paragraph 20b of my public affidavit. It is entitled UFO's [and the Intelligence Community Blind Spot to Surprise or Deceptive Data.] In this document, the author discusses what he considers to be a serious shortcoming in the Agency's COMINT interception and reporting procedures --[the inability to respond correctly to surprising information or deliberately deceptive data.] He uses the UFO phenomena to illustrate his belief that [the inability of the U.S. intelligence community to process this type of unusual data adversely affects U.S. intelligence gathering capabilities.] Deletions in this document were made as follows:

(1) All of the title after UFO, which addresses the perceived shortcoming, and all of paragraph one, which discusses [the employee's perception of the negative implications]

of the handling of UFO phenomena as it demonstrates what he believes is the less than optimum ability of the intelligence community to process and evaluate highly unusual data. As I stated in my public affidavit (paragraph 20b), the type of candor that is reflected in this record must be encouraged especially in an intelligence Agency where the most meaningful suggestions regarding ways to promote the efficiency of the critical Agency mission will of necessity come from within. Public disclosure of such information, especially when it advances a novel theory, could have the effect of stifling such candor by the risk of diminution of professional standing the employee runs if subsequently found wrong. Thus, this matter was deleted pursuant to 5 U.S.C. §552(b)(5).

(2) Paragraph three of this document uses a signals intelligence operation against [redacted] to illustrate the author's point. This paragraph contains information about SIGINT activities that is currently and properly classified and, thus, is exempt from disclosure pursuant to 5 U.S.C. §552(b)(1). The material in this paragraph also concerns the organization and operational activities and functions of NSA directed against [redacted] This material is exempt from disclosure under 5 U.S.C. §552(b)(3) which exempts from release under the FOIA matters specifically exempted from disclosure by another statute. As noted in paragraph 20, sub-paragraph b of my public affidavit, Public Law 86-36 provides that no law shall be construed to require disclosure of the organization or any function of the NSA or any information with respect to activities thereof.

(3) Paragraph four of the memorandum states the conclusions and recommendations of the author. While it talks of the ability of the Agency employees to deal with unusual phenomena it is not responsive to the plaintiff's request

regarding UFO or UFO phenomena. In any event, as I stated in my public affidavit (paragraph 20b), the subject matter of that paragraph is exempt from disclosure because it contains the employee's specific recommendations for addressing the problem of responding to surprise material. For the reasons stated in sub-paragraph (1) above, these recommendations are exempt from disclosure pursuant to 5 U.S.C. §552(b)(5). One specific recommendation suggests an operational approach to solving the problem which reveals NSA activities and is, therefore, exempt from disclosure pursuant to 5 U.S.C. §552(b)(3) as explained above.

(4) The final deletion is in appendix A, paragraph 10 of this report. This section talks about deceptive communications tactics used by the Vietnamese against U.S. forces and does not include any reference to UFO or UFO phenomena and is, therefore, not responsive to plaintiff's request. Nonetheless the subject matter of sub-paragraph 10 is currently and properly classified. Thus, even if it were deemed to be within the scope of plaintiff's request, it is exempt from disclosure pursuant to 5 U.S.C. §552 (b)(1).

COMINT REPORTS

5. (TSC) The remaining one hundred and fifty-six records being withheld are communications intelligence (COMINT) reports which were produced between 1958 and 1979. For purposes of my discussion here, these records are organized into three groups based upon the source of the report.

a. One hundred and fifteen of these reports were produced by the signals intelligence organizations [redacted] These COMINT reports are provided to NSA [redacted]

[redacted]

(1) Two of the records at issue here were produced by [redacted] The United States has extremely [redacted] The report from [redacted] was provided to NSA [redacted]

[redacted]

(2) One hundred and thirteen reports were provided [redacted]

b. Two of these COMINT reports originated from SIGINT operations which [redacted]

[redacted]

[redacted]

[redacted]

in exchange for the sharing of technology and COMINT information.

c. The remaining thirty-nine COMINT documents were produced by NSA or relate to NSA SIGINT operations. That is, these reports originated at NSA itself or in field sites under the operational and technical control of NSA.

6. (U) All of the COMINT reports are in either message or summary format. A report in message format contains a single underlying communication presented in a classic cable format, i.e., the verbatim text of the particular transmission, preceded and followed by "externals" consisting of: data about the sender and the recipient; the dates and times of transmission; and other technical information. A summary, as the label suggests, provides in summary form the contents of a single message or of a small number of related intercepted communications, often accompanied by some technical data.

7. (S-CCO) One hundred and fifty-four of the one hundred and fifty-six COMINT reports are based wholly upon intercepted communications of foreign governments transmitted on non-public "government net" communications links or systems. Of the two reports not included in this total, one report is the text of a [redacted] communication transmitted by an international communications common carrier. I have described the distinction between these two STET kinds of communications facilities in my public affidavit at paragraph 10. The other record which is not based on intercepted communications from "government net" facilities,

[redacted]

is a description of an incident purported to have been learned from U.S. interception and analysis of [redacted] communications.

8. (S) The COMINT reports originated by [redacted] can be further described in terms of sources and intelligence targets as follows:

a. [redacted] COMINT Reports Which Target Communications Transmitted on [redacted] Communications Facilities. One [redacted] report, in summary format, was produced by [redacted] from the intercepted communications between two [redacted] aircrafts and a ground controller in [redacted] 1971. [redacted] report a "phenomena" in the sky north of [redacted]. Three [redacted] reports are summaries of [redacted] messages intercepted from [redacted] communications. The messages were transmitted from [redacted] radar (STET) operators to a central control station. In these [redacted] messages, the [redacted] operators report everything that appears on their radar screens. When they cannot identify a particular object, they report it as an unidentifiable object. In translating these messages, the U.S. cryptolinguist uses "unidentified flying object" as the equivalent of the [redacted] text.

b. [redacted] COMINT Reports Which Target the [redacted] Communications System of [redacted] One hundred and nine documents in summary format report on intercepted communications between [redacted] radar (STET) operators and a central control point. These summaries are similar to the reports described in sub-paragraph a above and,

[redacted]

[again, contain[redacted] [information pertaining to the radar operator's report of objects on his radar screen which he cannot identify.]

c. [redacted] [COMINT Report Which Targets [redacted] Communications. This document is a summary of intercepted messages prepared in 1976 which report radar tracking information from a [redacted] [radar station to a central control point. It is similar to the reports described in sub-paragraphs (a) and (b) above.]

d. [redacted] [COMINT Report Which Targets [redacted] Communications. This summary was prepared in 1966 by [redacted] [It contains a summary of intercepted communications which were transmitted between the [redacted] and the [redacted] [commander regarding a yellow object that was reported to have fallen into the sea. These messages were transmitted along a "government net" [facility.]

[e. Two COMINT Reports Were the Product of [redacted] [SIGINT Operations and Targeted the [redacted] Communications of [redacted]. [The two reports were produced from a field [site which is [redacted] operated by the U.S. and [redacted] [The reports were prepared in 1966 and contain summaries of the communications transmitted by [redacted] [radar operators as discussed in sub-paragraph b, above. One of the two reports is a follow-up report to the other. The relevant activity reported deals with the tracking of an object approximately 50 nautical miles northeast of [redacted] [by the [redacted] [Facility. As with the messages described above, these COMINT reports are summaries of the [redacted] messages.]

[redacted]

[redacted]

9. (S/SC) NSA-originated reports - Thirty-eight documents are the direct product of NSA SIGINT operations and one document describes classified SIGINT activities. These documents can be further described as follows:

a. The document describing SIGINT operations reports an alleged intercept of [redacted] communications. The factual circumstances of the incident reported in this record were received by NSA from an FOIA requester other than the plaintiff and are considered to be fictitious by NSA analysts.

[redacted]

b. One record is a 1973 report which summarizes the [redacted] text of [redacted] message transmitted [redacted] from the [redacted] to the [redacted] in [redacted] It makes reference to a purported UFO sighting by [redacted]

[redacted]

c. Twelve NSA-originated COMINT reports target the communications links and systems of [redacted]. Two documents, in summary format, report the [redacted] communications. Two of the records are in message format and report the [redacted] communications which relate that an unidentified flying object was sighted in the air by a [redacted] unit. One report contains a summary of [redacted] activity based upon communications in reaction to an unidentified flying object along the [redacted]. Two documents report on communications transmitted between [redacted] and [redacted] who report visual observations of luminous spheres. One report is a summary of a transmission between [redacted]. Finally, four documents in this group of twelve were intercepted from other [redacted] communications targets. One document is based on the intercepted transmission of a [redacted] reporting a bright light. The second record is based on the intercept of a transmission of an [redacted] to a [redacted] station seeking a report on any shining phenomena or falling meteorites observed on specified dates. The third and fourth reports are a summaries of on-going debates on UFOs among [redacted] based on intercepted communications transmitted on [redacted] nets.

d. Five of the NSA-originated COMINT reports target government net communications [redacted]. All five of these documents are based on intercepted [redacted] communications [redacted] units and [redacted] reporting observations of luminous objects in the sky.

e. Four NSA-originated COMINT reports target [redacted] communications links or systems. Three reports are in summary format and are based on an intercepted message transmitted [redacted] sites reporting an unidentified flying object at a very high altitude; an intercepted message transmitted from [redacted] reporting that an unidentified flying object with two lights had passed over [redacted] and an intercepted voice message transmitted to [redacted] facility by a [redacted] who reported an unidentified flying object. The fourth report is based upon a message between [redacted] units regarding a UFO sighting.

f. Sixteen NSA-originated COMINT reports target the "government net" communications systems and links of several different countries. This group contains summaries of intercepted transmissions between [redacted] (two reports based on communications of [redacted] and an unidentified sender reporting sightings of a UFO), [redacted] (two reports based on communications by [redacted] reporting unidentified flying objects), [redacted] (a report based on a message from a [redacted] to an unidentified receiver in [redacted] reporting a sighting of unidentified flying objects), [redacted] (a report from an [redacted] to the [redacted] in [redacted] reporting an object that appeared to be a rocket over [redacted] (a report based on communications between two [redacted] and an unidentified [redacted] station (STLT) in which [redacted] reported sightings of bright or light spots), [redacted] (a report based

on a transmission from a [redacted] unit to a [redacted] reporting a sighting of an unidentified flying object), [redacted] (a report based on a message from [redacted] to an an unidentified recipient which provided instructions for reporting the sighting of flying objects), and [redacted] (a report based upon a transmission between [redacted] reporting that some [redacted] saw a ball of light about the size of an orange moving overhead). One document in summary format is the product of an intercepted [redacted] transmission reporting the sighting of an elongated ball of fire. One document in message format reports the text of a [redacted] message sent by the [redacted] to the [redacted] reporting an unidentified flying object. One document in summary format reports the [redacted] text of [redacted] message from [redacted] to [redacted] which was transmitted along a "government net" facility. It reports, among other items, an increase in UFO activity. The last three documents in this group report on intercepted communications of [redacted] Each report contains information derived from intercepted transmissions reporting the tracking of unidentified aircraft by [redacted] (STET radar) operators.

EXEMPTION OF THE COMINT REPORTS

10. (S-[redacted]) A primary and often overriding consideration regarding the classification of COMINT reports is that the need to protect communications intelligence sources and methods is greater than the need to protect sensitive contents of the underlying intercepted messages. Nevertheless, no portion of the contents of COMINT reports may be disclosed, where, as here, revealing the information would have the effect of identifying

for the target communicators the specific communications that had been intercepted and exploited. One hundred and fifty-four of the COMINT reports being withheld are the product of intercept operations directed against foreign government controlled communications systems within their territorial boundaries. Revealing the contents of these reports would disclose the capability of NSA to target these government controlled communication systems. Even where the underlying communications are not specified, [redacted] the communications had been intercepted for processing by NSA. Moreover, the disclosure of these reports would reveal much more than the identity of the targeted communications systems. It would reveal as well [redacted]

STET for release

11. (TS-CCO) The communications sources involved in this case -- which are specified or implicitly identified in the COMINT reports being withheld by NSA -- are the source of extremely valuable communications intelligence covering a broad range of kinds of information from [redacted] and other [redacted] activities to [redacted] and [redacted] matters. Release of these documents would seriously damage the ability of the United States to gather this vital intelligence information for the following reasons:

a) Disclosure of the report discussed in paragraph 9b would inform [redacted] that their communications by international common carrier facilities [redacted] can be intercepted and selected out by NSA, and, even more importantly, that the [redacted]

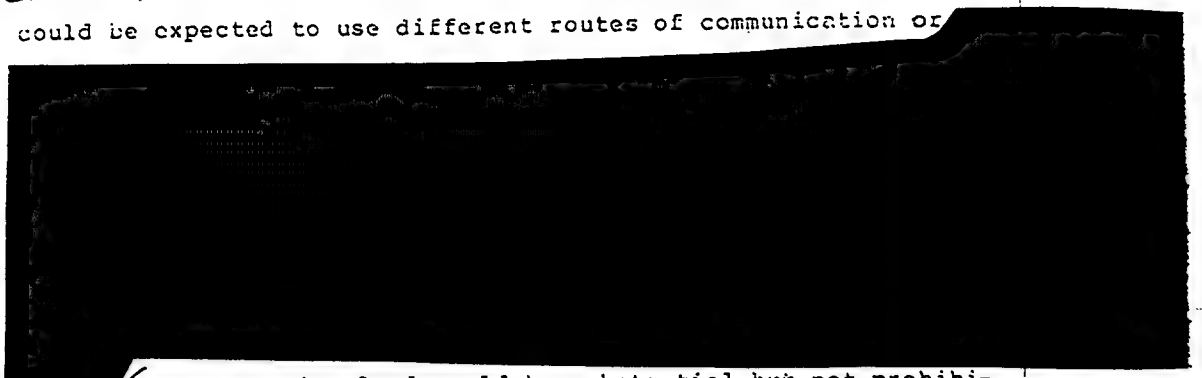
[redacted] Furthermore, revealing the NSA intercept operation against the international common access carrier route which yielded the [redacted] message could cause the United States to lose access to the communications of other foreign governments who use that same communications route.

(b) The disclosure of reports, such as [redacted] one at issue here, based on messages transmitted via international common access carrier facilities would also reveal this Agency's capacity to select from such intercepted communications those messages having potential intelligence value. [redacted]

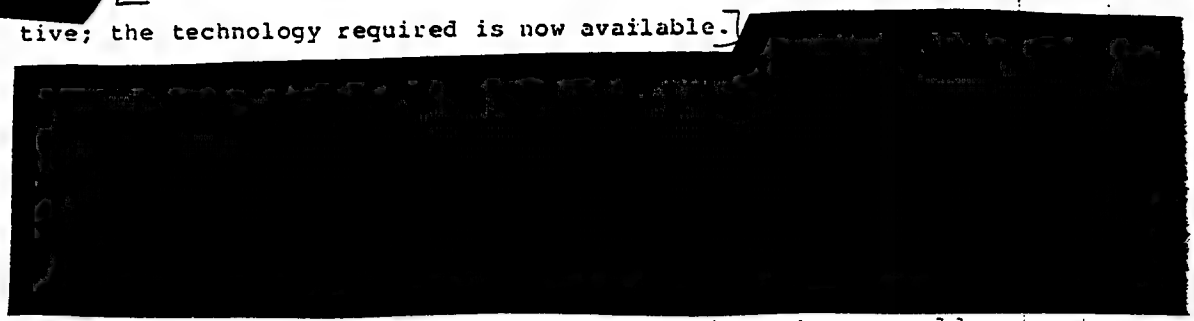
[redacted] NSA usually [redacted]

(c) As I have stated in my open affidavit, when alerted to the extent of NSA's capability, and if given information from

which inferences could be drawn as to the processing methods used, foreign intelligence services would be able to evade or defeat portions of NSA's present foreign intelligence efforts targeting international common carrier links. These countries could be expected to use different routes of communication or



The costs involved would be substantial but not prohibitive; the technology required is now available.



12. The disclosure of other records at issue here, would result in the loss of the intelligence information gathered from the interception of the government net communications systems. The value of the intelligence data collected from these sources is obvious.

(a) For example, analysis of data collected from the intercept of communications of a foreign government-- (paragraphs 8a, b, c, e and 9f) communications (paragraph 9c), or transmissions between (paragraphs

8d and 9d, e, f) -- immeasurably aids U.S. analysts' studies of the [redacted] Analysts are able to report on the [redacted] capabilities of foreign [redacted] generally. This information enables planners in turn to assess the capability of [redacted] system [redacted] and [redacted] The data transmitted [redacted] communications is useful in evaluating the performance capabilities of [redacted] By monitoring the [redacted] activity and other [redacted] transmissions and relating it to geographic areas, the U.S. analyst can [redacted] Other targeted [redacted] communications provide critical technical information, such as data [redacted] which is vital to the development of U.S. countermeasures. Foreign [redacted] communications are among the [redacted] sources of intelligence information regarding their nation's intentions, in both the short and long terms. Moreover, the government net systems described here continue to yield valuable intelligence data -- including the [redacted] communication systems discussed in paragraph 9d, [redacted]

(2) Also, the data collected from intercept operations against [redacted] government net systems (deseribed in paragraph 9c) provides invaluable information to our policymakers. From these sources U.S. analysts are able to compile reports on significant [redacted] activity, [redacted] and [redacted] events. Also, by monitoring these [redacted] transmissions, analysts are able to obtain data to

[redacted] The intelligence collected from these sources is no less vital to U.S. planners than the [redacted]

13. (TSC) The need to protect against any identification of the targets of intercept operations is equaled by the need to protect against revealing the identity of the [redacted] sources [redacted] Disclosure of the records [redacted] could have extremely adverse repercussions to the U.S. over and beyond the [redacted] The most serious [redacted] would be a [redacted] At the very least [redacted] significant loss of [redacted] Furthermore, disclosures which would tend to identify [redacted] for COMINT [redacted]

[redacted]

[redacted]

CLASSIFICATION OF THE WITHHELD COMINT REPORTS

14. (S-CCO) As I have indicated in paragraph 17 of my open affidavit, I have determined that the one hundred and fifty-six [redacted] reports relating to COMINT activities at issue here are based on intercepted communications of foreign governments or SIGINT operations and, thus, remain properly classified. In conducting this review I have weighed the significant need for openness in government against the likelihood of damage to our national security at this time and have determined that each record should continue to be classified. No meaningful portion can be segregated from the records without revealing classified information about the intercepted communications underlying the COMINT reports. Because each record and each portion thereof is properly classified under Executive Order 12065, it is exempt from disclosure pursuant to 5 U.S.C. §552(b)(1).

15. (S-CCO) The interception, processing and exploiting of foreign communications sent on international common carrier facilities or by government net channels are within the COMINT mission of NSA. So, too, is the carrying out of [redacted] These functions and activities of NSA are particular types of matters that may be withheld under 5 U.S.C. §552(b)(3), since Section 6

[redacted]

of Public Law 86-36 permits the Agency to refuse to release them. In this case, the COMINT reports reflecting those functions and activities must be withheld to avoid compromising the efficacy of the sources of COMINT information involved.

16. (S [redacted] Information about the interception, processing and exploitation of the foreign communications underlying the records being withheld by NSA is classified information concerning communications intelligence activities of the United States [redacted] the unauthorized disclosure of which is prohibited by 18 U.S.C. §798, paragraphs (a)(3) and (a)(4). This information because it is prohibited from disclosure by statute, is exempt from release under the FOIA pursuant to 5 U.S.C. §552(b)(3).

17. (U) As stated in my public affidavit, the information that would be disclosed by these records is information about intelligence sources and methods protected from unauthorized disclosure under 50 U.S.C. §403(d)(3). The reports are therefore exempt from release under Exemption 3 of the FOIA. 5 U.S.C. §552(b)(3).

18. (U) In view of the foregoing, and in order to protect existing sensitive and important foreign intelligence sources and processing techniques vital to the national security, I certify that disclosure of past and present foreign intelligence communications activities of NSA revealed in the records the plaintiff seeks would endanger highly valuable sources of foreign intelligence.

19. (U) Finally, I respectfully request that the Court treat this affidavit in the same secure manner as it has been handled in submission to the Court, and to return it to appropriate personnel of the Department of Justice as soon as possible after review by the Court. The Department

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of Justice will retain custody of this document under the Court's seal, subject to any further orders of this Court or any other court of competent jurisdiction.

Eugene F. Yeates
EUGENE F. YEATES
Chief, Office of Policy

Subscribed and sworn to before me this 24th day of October 1980.

Gerald S. Everett
NOTARY PUBLIC

My commission expires on July 1, 1982.

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